

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

PACSEC3, LLC,

Plaintiff,

v.

FORESCOUT TECHNOLOGIES, INC.,

Defendant.

CASE NO. 2:22-cv-00055-JRG-RSP  
(Lead Case)

PACSEC3, LLC,

Plaintiff,

v.

SPLUNK INC.,

Defendant.

CASE NO. 2:22-cv-00056-JRG-RSP  
(Member Case)

**PLAINTIFF PACSEC3, LLC AND DEFENDANT SPLUNK INC.'S JOINT NOTICE OF  
MOOTNESS REGARDING SPLUNK'S MOTION TO DISMISS PACSEC3'S  
THIRD AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff PacSec3, LLC has confirmed that it will not assert claims 1-6 and 13-18 of U.S. Patent No. 7,523,497 (the “Asserted Patent”) against Defendant Splunk Inc. at any time in view of the September 9, 2021 claim construction order in *PacSec3, LLC v. NETSCOUT Systems, Inc.*, No. 6:20-cv-00914-ADA, ECF No. 54 (W.D. Tex. Sept. 9, 2021) finding means-plus-function claims of the Asserted Patent indefinite, and Judge Albright’s instruction on May 26, 2022 in *PacSec3, LLC v. Rapid7, Inc.*, No. 6:22-cv-00168-ADA (W.D. Tex.) that “the Court will not entertain any re-argument on claim terms already construed in a prior case.” As a result, Splunk’s May 19, 2022 Motion to Dismiss PacSec3’s Third Amended Complaint for Patent Infringement is moot.

Consistent with Federal Rule of Civil Procedure 12, Splunk’s responsive pleading is due within 14 days of this notice.

Dated: May 31, 2022

By: /s/ William P. Ramey, III

William P. Ramey, III

Ramey LLP

William P. Ramey, III

Texas Bar No. 24027643

wramey@rameyfirm.com

Kyril V. Talanov

Texas State Bar No. 24075139

ktalanov@rameyfirm.com

5020 Montrose Blvd., Suite 800

Houston, Texas 77006

(713) 426-3923 (telephone)

(832) 900-4941 (fax)

*Attorneys for PacSec3, LLC*

By: /s/ Melissa R. Smith  
Melissa R. Smith

GILLAM & SMITH, LLP  
Melissa R. Smith  
State Bar No. 24001351  
303 South Washington Avenue  
Marshall, Texas 75670  
Melissa@gillamsmithlaw.com  
Telephone: 903-934-8450  
Facsimile: 903-934-9257

MORRISON & FOERSTER LLP  
Michael A. Jacobs, Bar No. 111664  
mjacobs@mofo.com  
425 Market Street  
San Francisco, CA 94105-2482  
Telephone: 415.268.7000  
Facsimile: 415.268.7522

MORRISON & FOERSTER LLP  
Bita Rahebi, Bar No. 209351  
brahebi@mofo.com  
Alex S. Yap, Bar No. 241400  
ayap@mofo.com  
Rose S. Lee, *Pro Hac Vice*  
roselee@mofo.com  
Nima I. Kiaei, *Pro Hac Vice*  
nkiaei@mofo.com  
707 Wilshire Boulevard  
Los Angeles, CA 90017-3543  
Telephone: 213.892.5200  
Facsimile: 213.892.5454

Attorneys for Defendant, SPLUNK INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on May 31, 2022.

/s/ Melissa R. Smith  
Melissa R. Smith